

VZCZCXRO3605
RR RUEHDBU RUEHPW RUEHSL
DE RUEHBUL #2378/01 2280820
ZNR UUUUU ZZH
R 160820Z AUG 09
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC 0848
INFO RUCNAFG/AFGHANISTAN COLLECTIVE

UNCLAS SECTION 01 OF 03 KABUL 002378

DEPARTMENT FOR SRAP, SCA/FO, SCA/A, EUR/RPM
STATE PASS TO AID FOR ASIA/SCAA
USFOR-A FOR POLAD

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: [KDEM](#) [PGOV](#) [PREL](#) [AF](#)
SUBJECT: STRENGTHENING THE INDEPENDENT ELECTORAL
COMPLAINTS COMMISSION

REF: A. Kabul 2295
[1](#)B. Kabul 2019

[1](#)1. (U) SUMMARY: Fraud remains a serious threat to the election process as actual or perceived fraud may seriously undermine acceptance of election results (ref A). The Independent Election Commission (IEC) and Independent Electoral Complaints Commission (ECC) are the main bodies involved in preventing, detecting and resolving electoral fraud. IEC fraud prevention and mitigation mechanisms are good but will be strained by conditions on the ground (ref B). As a result, a strong and effective ECC is critical for ensuring a credible election. After a slow start, the ECC is rapidly increasing capability and taking steps to improve its public perception of using USG and other support. End Summary.

Fraud remains a threat to credible elections

[1](#)2. (U) A trend of electoral fraud, established the 2004 and 2005 elections, is likely to continue. In 2005, the JEMB and ECC excluded more than 700 polling stations from the count due to fraud. An equal or greater risk during this election exists because security conditions have deteriorated, limiting the ability of candidate/party agents and observers, who serve as an important fraud deterrent, to reach fraud-prone areas. In addition, with a highly-contested presidential race, the potential impact of fraud on electoral outcomes is high. Government of the Islamic Republic of Afghanistan (GIROA) and the international community push to increase enfranchisement by opening polling sites in areas inaccessible to Afghan National Security Forces (ANSF) and observers further increases the risk of fraud, although the very recent IEC decision to insist that ANSF security is the sine qua non to establishing a polling center mitigates the risk.

Roles of IEC and ECC in fraud prevention
and resolution

[1](#)3. (U) The IEC is responsible for overall quality control of the election process and implementation of a systematic approach to fraud prevention and detection. In addition to existing controls, the IEC will use internal audits of results to detect fraud and conduct investigations when necessary. If the IEC finds evidence of fraud, it may quarantine boxes or stations as more investigation is done or decide to exclude or include boxes and stations from preliminary results (ref B).

[1](#)4. (U) The ECC will be primarily complaint driven and will not take up fraud cases unless it receives information that irregularity has occurred. However, the ECC will conduct analysis to determine areas that are fraud-prone, and may prioritize resolution of complaints from these areas. To reach decisions, the ECC will conduct investigations that will include interviews with key witnesses and inspection of election materials. If it identifies fraud it can

decide to exclude or include boxes - or entire polling stations - from the count and sanction offenders for fraud violations or other polling and counting offences.

¶15. (U) In addition to complaints made on Election Day, the ECC likely will receive complaints as the IEC announces preliminary results in the days and weeks after the election. The ECC will adjudicate these complaints and may make additional exclusion or inclusion decisions and sanction offenders for violations. The IEC only can certify and announce final election results once the ECC has made a decision on all complaints that have been filed within the allowed time frame. Complaints must be made within 72 hours of the offense.

Recent ECC sanctions

¶16. (U) The ECC has announced several recent high-profile sanctions of candidates that have helped to strengthen the public perception of its capabilities. This increased credibility will be important when it faces the anticipated large number of complaints about fraud and other offenses after Election Day.

¶17. (U) On August 10, the ECC announced that it had fined VP Karim Khalili, the second running mate of Hamed Karzai. Khalili allegedly used three MOD helicopters for campaign purposes without following the policy established by the IEC for the use of government helicopters by candidates. The ECC cited "use of government facilities on an unequal basis among candidates," and "failure to follow IEC notification policy on use of MOD assets," observing that Khalili directly ordered MOD to provide three helicopters for him to fly in from Kabul to Baghlan on 10 July for campaign activities. Khalili did not deny to the ECC that he had done so, contending he had the authority to use choppers for this purpose. The ECC said he paid the fine of 75,000 afghanis (1,500 dollars) on August 13.

¶18. (U) In addition, the ECC announced on August 11 that it fined Dr. Abdullah Abdullah 5,000 afghanis for his campaigns pasting his photos on the publicity billboards of the Ministry of Public Health in Khost Province. The ECC also has fined eight presidential candidates for tardiness in their submission of campaign finance reports.

¶19. (U) In an interview with Tolo TV on August 11, Commissioner Fahim Hakim said if violations continue or recur, the ECC may increase penalties to a level that could disqualify a candidate. Fahim Hakim added that complaints have been filed against the local coordinators of the IEC in some provinces. He also said that six complaints against presidential and provincial council candidates have been sent to the General Prosecution Office because they contained allegations of candidate involvement in criminal activity. As of August 14, the ECC reported that it has received 376 complaints, with the majority at the provincial level, and adjudicated 105, most of them dismissed.

Current ECC operational status

¶10. (U) The ECC was delayed in building its operational capabilities, which has undermined public confidence in its ability to regulate the election process, but it has recently gained momentum (ref A). The ECC will need to be fully functional before Election Day so that it is able to manage the anticipated flood of complaints resulting from the presidential and provincial elections. The ECC estimates it will receive about 4,000 total complaints mostly pertaining to provincial council elections.

¶11. (U) On Aug 11, the ECC shared with donors its operational plan for adjudicating polling and counting complaints. The ECC will receive complaints arising directly from polling stations as well as complaints against preliminary results.

¶12. (U) Key elements of the operational plan are the following:

- (1) A centralized intake process at the ECC Complaints Processing Center in Kabul.
- (2) An initial assessment process ("triage") by ECC HQ to

determine the priority of each complaint.

(3) Investigation strategies driven by ECC HQ, executed as required at the National Tally Center, in the provincial capitals or at the district level.

(4) Close consultation with IEC regarding IEC audit and investigation findings.

(5) Public notification of decisions through various means.

¶13. (U) The ECC is represented in each provinces by a Provincial Electoral Complaints Commissions (PECC) made up of three Commissioners and one support officer. Eight of the offices will have additional legal and investigative capacity. ECC commissioners make all final decisions based on recommendations and initial decisions presented by investigative teams and PECCs. As of August 12, the ECC had 30 of 34 PECC offices fully established and staffed and plans to complete the hiring of staff for the remaining four provinces this week.

¶14. (U) The ECC has made recent progress in preparing its staff for the challenge ahead. In the past two weeks a total of 100 staff members from headquarters as well as provinces received a three day seminar on investigative techniques at separate training sessions for Dari and Pashtu-speaking staff at the Serena Hotel. The training sessions also served to raise the public profile of the ECC. At the sessions, ECC Commissioner Grant Kippen and other ECC officials outlined the overarching purpose of the ECC and its current activities to staff and the Afghan press.

International and USG support to the ECC

¶15. (U) The USG is supporting the ECC primarily through the UNDP Elect programs as well as through a USAID contract with the International Foundation for Electoral Systems (IFES). Support includes core operational and staffing, as well as international technical advisors for legal affairs, logistics, public outreach and investigations.

¶16. (SBU) In addition, the US Interagency Election Support Team is providing direct support, working with ECC to help identify procedural weaknesses, structure its operations, and analyze registration, polling center and fraud data to identify and map fraud-prone areas. While providing this assistance, the Team is ensuring that the support is being provided in a low-profile manner to limit false perceptions of USG over involvement.

¶17. (SBU) The Team also is coordinating USG logistical support to the ECC and IEC by making flight arrangements on USAID Air and facilitating PRT access in insecure and fraud-prone provinces. With USG support, the ECC Commissioners are traveling to regional centers to ECC offices to ensure offices are well-functioning ahead of Election Day. Also with USG support, the IEC Chief Election Officer and other top-level election officials are traveling to fraud-prone and insecure areas to audit the current preparations and emphasize fraud prevention measures. Current plans call for top ECC and IEC officials to visit about 20 provincial centers in the days before the election.

¶18. (SBU) In the days and weeks after Election Day, the ECC may require additional direct staffing, research, analysis and investigation support. Also after Election Day, USG transportation and logistical support may be even more important as investigation teams may need assistance accessing insecure areas so complaints can be resolved in a thorough and timely manner. The Election Support Team will continue its involvement with ECC and stands ready to provide additional technical support as needed.

EIKENBERRY